

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

OCT 17 2008

STATE OF ILLINOIS  
Pollution Control Board

CITY OF JOLIET, )  
)  
Petitioner, )  
)  
v. )  
)  
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
)  
Respondent. )

PCB 09 - 25  
(Permit Appeal-Water)

NOTICE OF FILING


TO: Illinois Environmental Protection Agency  
Alan Keller  
Division of Water Pollution Control  
Manager, Permit Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

Illinois Pollution Control Board  
Dorothy M. Gunn  
100 West Randolph  
Suite 11-500  
Chicago, IL 60601

PLEASE TAKE NOTICE that on **Friday, October 17, 2008**, we filed with the Office of the Clerk of the Pollution Control Board an original and ten copies of the attached **Joliet's Petition for Review**, a copy of which is served upon you.

Respectfully submitted,

THE CITY OF JOLIET

By:   
One of Its Attorneys

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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**PETITION FOR REVIEW**

NOW COMES, Petitioner, THE CITY OF JOLIET (hereinafter, "Joliet"), by and through its attorneys, Drinker Biddle & Reath LLP, pursuant to Section 40 (a)(1) of the Illinois Environmental Protection Act (415 ILCS 5/40(a)(1)) ("Act") and 35 Ill. Adm. Code § 105.204 Subpart B, and petitions the Illinois Pollution Control Board ("Board") for review of the Illinois Environmental Protection Agency's ("IEPA") denial of Joliet's request to modify the February 16, 2007 modification of the Sewage Sludge Permit originally issued to Joliet by IEPA on October 5, 2006.

In support thereof, Joliet states as follows:

1. Joliet owns and operates three wastewater treatment plants in Joliet, Illinois.
2. Joliet operates water pollution control facilities as part of its wastewater treatment plant operations. IEPA issued permit number 2001-SC-2708 which specifically allows Joliet to apply sewage sludge from its wastewater treatment operations to agricultural lands.

3. Joliet requested to renew and replace its permit number 2001-SC-2708 and on October 5, 2006, IEPA Division of Water Pollution Control renewed and replaced the above referenced permit with Permit Number 2006-SC-4784 (“October 2006 permit”).

4. IEPA issued Joliet’s October 2006 permit with eight special conditions. Joliet was in agreement to all the special conditions except that of Special Condition number 2.

5. Special Condition number 2 required that the sludge being applied to the agricultural land under the October 2006 permit “...shall not cause the total accumulative increase of Radium 226 and Radium 228 in soil to exceed 0.1 pCi/g.”

6. Pursuant to a request from Joliet, the IEPA filed on December 7, 2006 a request for the Board to agree to extend the time period within which Joliet would have to appeal this permit. The Board accepted and docketed this request as PCB 07-38. Subsequently during negotiations, IEPA agreed to modify the permit to increase the allowable Radium 226 and 228 in soil level to 0.4 pCi/g found in Special Condition 2. The IEPA issued a modified permit number 2006-SC-4784-2 on February 16, 2007 (“February 16, 2007 Permit”) (See Exhibit A).

7. On March 1, 2007, the Board dismissed the PCB 07-38 appeal because Joliet did not file a formal appeal.

8. On March 21, 2007, Joliet filed an appeal of the February 16, 2007 permit which was docketed as PCB 07-94.

9. During the pending of this appeal, Joliet agreed to provide the IEPA with certain additional information to support an increase in the allowable Radium level set forth in Special Condition 2.

10. On June 19, 2008, the Board dismissed PCB 07-94 pursuant to a motion filed by Joliet on June 6, 2008.

11. On July 30, 2008, Joliet caused a permit application to be filed with the IEPA which requested a modification of the allowable soil levels, by increasing Special Condition 2 from 0.4 to 1.0 pCi/g, together with supporting materials.

12. The IEPA denied the requested increase on September 12, 2008 (See Exhibit B).

13. Joliet believes that there is no basis in law or fact to support the inclusion of Special Condition number 2 as written in the February 16, 2007 Permit.

14. The regulations that apply to permits for sites receiving sludge for land application are authorized under Section 35 of the Illinois Administrative Code Part 309 subpart B and 35 Illinois Administrative Code Part 391 subpart B. A refusal by the IEPA to grant the permit application requesting a modification thereby entitles the applicant to appeal the IEPA's decision pursuant to Section 40 of the Act.


15. Pursuant to Section 40 of the Act, the applicant has 35 days from the date it receives its decision from the IEPA to petition the Board for a hearing to contest IEPA's decision. *415 ILCS 5/40(a)(1)(2006)*.

16. Joliet received the denial from IEPA on September 16, 2008 and is requesting a hearing before the Board within the initial 35 day appeal period pursuant to *415 ILCS 5/40(a)(1)(2006)*.

WHEREFORE, Petitioner, THE CITY OF JOLIET, petitions the Illinois Pollution Control Board for a hearing on the IEPA's action to deny the requested modification to the sludge permit's Special Condition 2.

Respectfully submitted,

THE CITY OF JOLIET,  
Petitioner,

By:   
One of its Attorneys

Dated: October 17, 2008

Roy M. Harsch, Esq.  
Yesenia Villasenor-Rodriguez, Esq.  
Drinker Biddle & Reath LLP  
191 North Wacker Drive - Suite 3700  
Chicago, Illinois 60606  
(312) 569-1441 (Direct Dial)  
(312) 569-3441 (Facsimile)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
WATER POLLUTION CONTROL PERMIT

LOG NUMBERS: 3080-07: 4784-06

PERMIT NO.: 2006-SC-4784-2

FINAL PLANS, SPECIFICATIONS, APPLICATION  
AND SUPPORTING DOCUMENTS  
PREPARED BY: Land Treatment Alternatives, Inc.

DATE ISSUED: February 16, 2007

SUBJECT: JOLIET EAST, WEST & AUX SABLE STPS: Increase in Allowable Radium Concentration and Application on Ice and/or Snow Covered Ground

PERMITTEE TO OWN AND OPERATE

City of Joliet  
150 West Jefferson  
Joliet, Illinois 60431

Supplemental Permit is hereby granted to the above designated permittee(s) to construct and/or operate water pollution control facilities, which were previously approved under Permit 2006-SC-4784 dated October 5, 2006. These facilities have been revised as follows:

1. Special Condition 2 of Permit No. 2006-SC-4784 is hereby revised to read as follows:

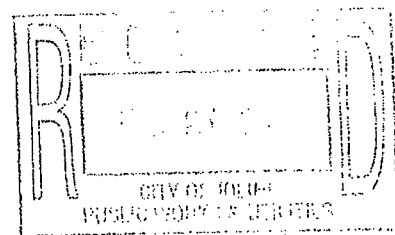
Sludge applied to land under this permit shall not cause the total accumulative increase of Radium 226 and Radium 228 in soil to exceed 0.4 pCi/g.

2. Now allowed under this permit is the application of sludge on ice and/or snow covered ground on the Herman Fritz property located in the NW 1/4 of Section 10, Aux Sable Township, Grundy County, Illinois.

This permit expires on September 30, 2011.

All Standard and Special Conditions and provisions of the original permit are also applicable to this permit unless specifically deleted or revised in this permit.

Page 1 of 1




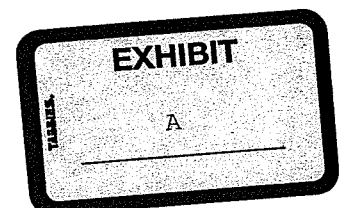
THE STANDARD CONDITIONS OF ISSUANCE INDICATED ON THE REVERSE SIDE MUST BE COMPLIED WITH IN FULL. READ ALL CONDITIONS CAREFULLY.

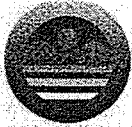
SAK:JCH:j:\docs\permits\statecon\hutton\308007

DIVISION OF WATER POLLUTION CONTROL

cc: EPA - Des Plaines FOS  
Land Treatment Alternatives, Inc.  
Records - Municipal  
Binds

  
Alan Keller, P.E.  
Manager, Permit Section





## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-2829  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

217/782-0610

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

September 12, 2008

City of Joliet  
Department of Public Works  
150 West Jefferson Street  
Joliet, Illinois 60432-4158

Re: Joliet-Land Application of Sewage Sludge  
Log No(s). 1186-08  
Denial

Gentlemen:

This Agency has reviewed your Application for Permit and the supporting documents for the subject project which were received on July 30, 2008. This Agency must deny the permit for this project for the following reasons.

1. The Memorandum of Agreement (MOA) between Illinois EPA and the Illinois Emergency Management Agency limits the increase in soil radium to 0.1 pCi/g above background levels. The proposed allowable increase in soil radium to 1.0 pCi/g exceeds the limit set in the MOA.

Sections 12 and 39 of the Environmental Protection Act (Act), 415 ILCS 5/12 and 39, prohibit the Agency from issuing a permit for any facility which would threaten, cause or allow the discharge of contaminants which might cause or tend to cause water pollution in Illinois. Section 39 of the Act also requires an applicant to submit proof to the Agency that the proposed facility will not cause a violation of the Act or the regulations adopted pursuant to the Act.

In addition to the above cited Sections of the Act, the permit application does not fulfill the requirements of 35 Ill. Adm. Code 309.241.

The following information, clarification or corrections must be provided for us to complete our technical review and are to be considered specific reasons why the Act and the regulations adopted pursuant to the Act will not be met:

The Agency will be pleased to reevaluate your permit application on receipt of your written request and the necessary information and documentation to correct or clarify the deficiencies noted above. The revised application will be considered filed on the date that the Agency receives your written request.

EXHIBIT

B

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You have the right to appeal this denial to the Illinois Pollution Control Board within a 35 day period following the date shown on this letter.

Should you have any questions or comments regarding the above, please contact Jeff Hutton at the indicated telephone number and address.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Keller". The signature is fluid and cursive, with the first name "Alan" and last name "Keller" clearly distinguishable.

Alan Keller, P.E.  
Manager, Permit Section  
Division of Water Pollution Control

SAK:JCH :1186den

cc: Des Plaines Region  
Rogina & Associates, Ltd.  
Binds



**CERTIFICATE OF SERVICE**

I, the undersigned, certify that I have served the attached Petition to Review, by First Class Mail, postage pre-paid on Friday, October 17, 2008 upon the following:

Illinois Environmental Protection Agency  
Alan Keller  
Division of Water Pollution Control  
Manager, Permit Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276



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Roy M. Harsch

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